

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Steven H. Rice)	Art Unit:	2837
Serial No.	09/814,581)	Examiner:	Hsieh, S.
Filed:	March 21, 2001)	Cust. No.	22931
For:	METHOD AND APPARATUS)	Attorney	
	FOR A DEVICE TO CREATE)	Ref. No.:	P313641
	A MUSICAL NOISE			

DECLARATION OF STEVEN RICE

1. I, Steven H. Rice, living at 3331 Bay Road, Ferndale, WA 98248, swear the following to be truthful under penalty of perjury of law.

2. I received a spinal cord injury in 1998 and was on a variety of narcotics during the following six years. I did not manage my life very well at this time. This period was quite rigorous and I spoke to Robert Hughes and I recall him indicating that a patent was allowed. *when*

3. My wife was dealing with some health issues at the time as well, and she passed away August 3 of last year.

4. Upon recently moving back to Washington from Alaska, I spoke with my nephew Jason Brewer, and I informed him that I had a patent, which was my understanding from the general process at the time. From discussions with my wife, it was my understanding that we did acquire the patent. With tighter finances due to medical issues, I did not pursue commercializing the concept, and given the medication I was taking, I was not in a proper state and further not working with my injury and my wife having up-and-down periods. Being able to work and other times not been able to work proved a difficult time to make cognitive decisions. I actually *when*

believed that Robert B. Hughes, the patent attorney, had passed away, but I was mistaken in that assessment as well.

5. When I was informed that Robert had not passed away, I was shocked. I now understand that is still practicing law.

6. Due to injuries and heavy medication such as morphine, methadone, OxyContin and I some other powerful medications as well as some anti-depressants and Nerontin and to Gabatrel which, in hindsight, I do not believe helped me or improve the quality of my life, and this medication, which was supposed to carry me on through life I felt in hindsight was carrying me down.

7. In early 2000 I was taken to the hospital three different times dealing with the pain management and lack of coordination and consumption of the drugs, which negatively impacted my health significantly enough that I was required to call an ambulance. During this time I have on a vague recollection of waking up in a hospital bed.

8. In general as a musician and artist, I do not consider management to be a strong point and being tied to specific deadlines, but of course I understand that all such deadlines are necessary in such fields as patent law. However, I do not have the present success in the music industry necessary to afford an assistant to handle the management of such details. It is my experience that musicians generally have outside consultants to manage such details. At any rate, it was absolutely not my intention at the time to let this patent (Serial Number 09/814,581) to go abandoned.

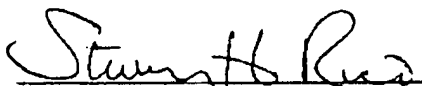
9. In the latter part of 2007, I spoke with my nephew Jason Brewer, who inquired about the patent and wanted to pursue commercialization of the embodiment which is encompass in the patent, Serial Number 09/814,581. I informed him that I had a patent and we could go forward. As he can attest in his own declaration, he spoke with Michael Hughes, the son of Robert B. Hughes, who practices with Robert. Michael Hughes informed Jason that the patent issue fee was not paid. These facts of course can be verified with the declaration accompanying herewith of Jason Brewer.

10. I know from general recollection between 2000- 2002 that I made some payments to the patent attorney, which I believed put the patent in issue status, leading me to I believe that concluded that the patent was in fact issued. However, upon reflection and further discussion with the patent attorney, it is my present understanding with a clearer mind that such payments were likely for the preparation and filing and some costs directed towards prosecution of the patent, not necessarily the final issue fee. I do not have a solid recollection during that time as to why the issue fee was not paid or followed through upon due to my mental state at the time.

11. When Jason Brewer returned to me in the latter part of 2007 informing me that the patent did not issue, I was quite shocked. I authorized him to contact Michael Hughes of the firm handling the matter and coordinate a game plan to get the patent allowed.

Signed at city of Ferndale, County of Whatcom, State of
Washington this 5th day of May, 2008.

Respectfully submitted,
STEVEN H. RICE,


Steven H. Rice